

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

SUMMARY ORDER

THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS OR ANY OTHER COURT, BUT MAY BE CALLED TO THE ATTENTION OF THIS OR ANY OTHER COURT IN A SUBSEQUENT STAGE OF THIS CASE, IN A RELATED CASE, OR IN ANY CASE FOR PURPOSES OF COLLATERAL ESTOPPEL OR RES JUDICATA.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, at Foley Square, in the City of New York, on the 23<sup>rd</sup> day of September, two thousand and four.

PRESENT:

HON. ROBERT D. SACK,  
HON. REENA RAGGI,  
HON. PETER W. HALL,

Circuit Judges.

- - - - - X

WILLIAM BEST,

Plaintiff-Appellant,

- v -

Nos. 03-2646-pr(L),  
03-7928-cv(con)

BELLEVUE HOSPITAL NEW YORK, NY; CARLOS F. PEREZ,  
EXECUTIVE DIRECTOR, ST. VINCENT'S,

Defendants-Appellees.

- - - - - X

Appearing for Appellant: William Best, pro se, Hollindale,  
FL

Appearing for Appellees: John J. O'Donnell, Costello, Shea & Gaffney LLP, New York, NY, for St. Vincent's Catholic Medical Centers of New York

Michael A. Cardozo, Corporation Counsel of the City of New York (Norman Corenthal and Kristin M. Helmers, of Counsel), New York, NY, for Bellevue Hospital and New York City

Appearing Amicus Curiae: Robert J. Boyle, Esq., New York, NY.

1 Appeal from the United States District Court for the  
2 Southern District of New York (Berman, J.; Francis, M.J.).

3 UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED  
4 AND DECREED that the judgment of the District Court is AFFIRMED  
5 IN PART, AND VACATED IN PART, AND THE ACTION IS REMANDED FOR  
6 FURTHER PROCEEDINGS.

7  
8 Plaintiff-Appellant William Best appeals from the  
9 judgment of the district court dismissing his complaint pursuant  
10 to Fed. R. Civ. P. 12(b)(6) and (c) for failure to state a claim  
11 upon which relief may be granted. Best also appeals from the  
12 district court's denial of his petition for habeas corpus relief  
13 under 28 U.S.C. § 2241.

14 We review a district court's judgment on the pleadings  
15 de novo. See Ziemba v. Wezner, 366 F.3d 161, 163 (2d Cir. 2004).  
16 In deciding a Rule 12(c) motion, we apply the same standard as  
17 that applicable to a motion under Rule 12(b)(6), accepting the  
18 allegations contained in the complaint as true and drawing all  
19 reasonable inferences in favor of the nonmoving party. Id.

20 Under Fed. R. Civ. P. 12(b)(6) and (c), where a motion  
21 for judgment on the pleadings or to dismiss for failure to state  
22 a claim requires the court to consider matters outside of the  
23 pleadings, the motion must be treated as a summary judgment  
24 motion, and "all parties shall be given reasonable opportunity to  
25 present all material made pertinent to such a motion by Rule 56."

26 Moreover, we have observed that "[t]he failure of a  
27 district court to apprise pro se litigants of the consequences of  
28 failing to respond to a motion for summary judgment is ordinarily  
29 grounds for reversal[.]" Ruotolo v. IRS, 28 F.3d 6, 8 (2d Cir.

1 1994) (per curiam), and that, "[a] district court may not convert  
2 a motion under Fed. R. Civ. P. 12(b) (6) into a Rule 56 motion for  
3 summary judgment without sufficient notice to an opposing party  
4 and an opportunity for that party to respond[,]” Groden v. Random  
5 House, Inc., 61 F.3d 1045, 1052-53 (2d Cir. 1995). In  
6 determining whether reversal is warranted in the absence of any  
7 notice of the summary judgment motion, we look to “the nature of  
8 the papers submitted by the [pro se] litigant and the assertions  
9 made therein as well as the litigant’s participation in  
10 proceedings before the District Court[,]” in order to determine  
11 whether the pro se litigant understood the nature of the summary  
12 judgment motion. Vital v. Interfaith Med. Ctr., 168 F.3d 615,  
13 621 (2d Cir. 1999).

14 In this case, the voluminous exhibits attached to  
15 Bellevue’s motion required the district court to consider matters  
16 outside the pleadings. See generally, Sara v. Morton, 380 F.3d  
17 57 (2004). Indeed, the memoranda filed by the district and  
18 magistrate judges in connection with the challenged judgment  
19 reflect their careful review of the extensive documentary record  
20 pertaining to Best’s involuntary confinement. Therein, however,  
21 lies our difficulty. It appears that the court’s review was  
22 premature because Best was not given notice that the motion for  
23 judgment on the pleadings was being converted into a summary  
24 judgment motion. The nature of Best’s minimal hand-written  
25 submissions in opposition to Bellevue’s motion indicates that,  
26 indeed, Best did not comprehend the consequences of the  
27 conversion of the motion to dismiss into a summary judgment  
28 motion.

29 However, the court did not provide Best with proper  
30 notice that the motion for judgment on the pleadings was being  
31 converted into a summary judgment motion. The nature of Best’s  
32 minimal hand-written submissions in opposition to Bellevue’s  
33 motion indicates that, indeed, Best did not comprehend the  
34 consequences of the conversion of the motion to dismiss into a  
35 summary judgment motion.

36 We must therefore, under Vital and Groden, determine  
37 whether prejudice resulted from the district court’s failure to  
38 give notice of the conversion of the motion to dismiss into a  
39 motion for summary judgment, or whether there exists an  
40 alternative ground for affirmance. We conclude that Best was  
41 prejudiced by the converted summary judgment motion, and that  
42 there are no alternative grounds for dismissal. Had the court  
43 taken the allegations of Best’s complaint as true, and had the  
44 court not considered at this stage of the proceedings the  
45 documentary record supporting involuntary confinement, it would

1 have had to conclude that Best set forth facially valid claims  
2 for violations of his substantive and procedural due process  
3 rights. See, e.g., Zinermon v. Burch, 494 U.S. 113, 133-34  
4 (1990); O'Connor v. Donaldson, 422 U.S. 563, 576 (1975).  
5 Specifically, Best alleged in his complaint that despite his  
6 tuberculosis, he should not have been confined as a medical  
7 danger to society because he did not refuse to take medication  
8 when he was initially detained, that he clearly stated in his  
9 complaint that he was not homeless or living communally, and that  
10 he did not state that he planned to leave New York immediately  
11 upon release. The district court concluded that these assertions  
12 were not supported by the confinement records, which indicated  
13 that Best might not be able to segregate himself from others  
14 while infectious and that, at some point in his confinement, he  
15 refused to take prescribed medication. As we have noted, such a  
16 review of evidence was premature. Best must be afforded an  
17 opportunity to respond with admissible evidence to the contrary  
18 so that the district court can assess whether there are disputed,  
19 triable issues of fact. We therefore vacate the judgment of the  
20 district court as to Best's claims against Bellevue, and remand  
21 for further proceedings on proper notice to Best that defendants'  
22 motion is being reviewed pursuant to Fed. R. Civ. P. 56.

23       Regarding Best's claim against St. Vincent's, alleging  
24 that St. Vincent's held him for longer than five days, as  
25 authorized by New York City Health Code § 11.47, the district  
26 court did not consider documents outside of the pleadings. Our  
27 de novo review reveals no errors in the court's dismissal of  
28 Best's claim against St. Vincent's; indeed, no party has argued  
29 on appeal that the court's action was erroneous in this respect.  
30 We therefore affirm the judgment of the district court with  
31 respect to its dismissal of Best's claims against St. Vincent's.

32       Finally, regarding the denial of Best's habeas corpus  
33 petition, the appeal from which was docketed in this court under  
34 number 03-2646, we observe that Best has been released from  
35 custody without any restrictions and, therefore, the petition is  
36 moot. See Jones v. Cunningham, 371 U.S. 236, 240 (1963).

1           In 03-7928, we therefore hereby AFFIRM the judgment of  
2 the District Court with respect to the dismissal of the claims  
3 against St. Vincent's, but VACATE and REMAND the judgment with  
4 respect to the claims against Bellevue Hospital. In number 03-  
5 2646, we hereby DISMISS the appeal as moot.

6                           FOR THE COURT:  
7                           Roseann B. MacKechnie,  
8                           Clerk

9                           By:Richard Alcantara,  
10                          Deputy Clerk

11                          Date: 9/23/04